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Report of the Secretary-General on the activities of the Office of Internal Oversight Services

Investigation into allegations of misconduct and mismanagement of the "boat project" at the United Nations Office for Drug Control and Crime Prevention

Note by the Secretary-General

1. Pursuant to General Assembly resolutions 48/218 B of 29 July 1994 and 54/244 of 23 December 1999, the Secretary-General has the honour to transmit, for the attention of the General Assembly, the attached report, conveyed to him by the Under-Secretary-General for Internal Oversight Services, on the investigation into allegations of misconduct and mismanagement of the "boat project" at the United Nations Office for Drug Control and Crime Prevention (ODCCP).

2. The Secretary-General takes note of the findings of the report, concurs with its recommendations and is pleased to note that measures are being taken or have been initiated in respect of those recommendations.

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Report of the Office of Internal Oversight Services on the investigation into allegations of misconduct and mismanagement of the "boat project" at the United Nations Office for Drug Control and Crime Prevention

Summary

In late 2000, the Investigations Division of the Office of Internal Oversight Services (ID/OIOS) received reports alleging that the Executive Director of United Nations Office for Drug Control and Crime Prevention (ODCCP), had engaged in misconduct by improperly giving Office funds and equipment to a personal friend and fellow sailor, the captain of a 90-year-old wooden sailboat, in exchange for the captain's assistance with the Executive Director's voyage on his personal sailboat across the Atlantic Ocean.

Although extensive investigation determined that the evidence did not support this allegation, the Investigations Division of OIOS did determine that multiple incidents of mismanagement of project operations and waste of ODCCP funds occurred in connection with a related preparatory assistance project. The present report details the findings of the investigation into the allegation of wrongdoing and the series of management failures that occurred in connection with the ODCCP project, which came to be known as "the boat project".

The Executive Director of the Office characterized the identified shortcomings as "administrative mistakes" and disagreed that they represented "mismanagement" or a "waste of resources".

The Office of Internal Oversight Services, however, is of the view that the factual findings clearly demonstrate that there were numerous material failures, not mere mistakes.

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I. Summary of the allegations of misconduct and related findings by the Office of Internal Oversight Services

1. In late 2000, it was reported to the Office of Internal Oversight Services (OIOS) investigators that, in November 1999, the Executive Director of the United Nations Office for Drug Control and Crime Prevention (ODCCP) had arranged the employment of the captain of a sailing boat, on a consultancy contract, based on a prior personal relationship between the two men. Although the specifics varied, the gravamen of the allegation was that the true purpose of the ODCCP employment of the captain was so that the Executive Director would have the benefit of the captain's sailing skills on board his personal sailboat during his voyage across the Atlantic Ocean. The voyage, from the Canary Islands to the Caribbean, took place in December of 1999. The evidence, including verification of the location of the captain in Geneva during part of the voyage, does not however support the allegations. It was alternatively alleged that the captain had sailed the Executive Director's boat back to Sardinia, Italy, but OIOS investigators confirmed that the boat had remained in the Caribbean.

2. OIOS also was told that the captain had been given ODCCP funds to buy a vehicle for his personal use and to establish an office in the Canary Islands, where he resided, as part of the private arrangement between himself and the Executive Director. OIOS has confirmed that a vehicle was purchased and that an office was established by ODCCP. Finally, one source alleged that the funds expended on the project had been "hidden" by being routed through the ODCCP regional office for the Russian Federation and Belarus via a separate regional project. OIOS has confirmed that most of the funds expended were routed through the regional office.

3. Because of the variations in the reports received, OIOS investigators examined the details of both the relationship between the captain and the Executive Director and the terms and conditions of the arrangements between ODCCP and the captain. The findings are presented below.

A. Relationship between the Executive Director and the captain

4. There is no evidence to support the allegation that the Executive Director and the captain knew each other before they met in late August 1999 in Las Palmas, Canary Islands. The captain's sailboat was docked at the same marina in Las Palmas as was used by the Executive Director. By the accounts of both men and one other witness, the Executive Director approached the captain's boat and engaged him in a discussion about the boat. The captain explained to the Executive Director that he had been in Las Palmas since 1995, following the collapse of a planned solo, non-stop world circumnavigation. As the captain later told the investigators, he had been searching since 1995 for sufficient funds to undertake his voyage, but had experienced a series of financial problems, which made even the upkeep of the boat, on which he and his fiancée were then living, difficult.

5. According to the captain, that project for his voyage — a boyhood dream — was intended to raise awareness of a number of important issues, including children's rights and the fiftieth anniversary of the United Nations. At the mention of the United Nations, the Executive Director told the captain that he was working for the United Nations, however, as the captain told the investigators, he "did not believe it" because he had been told so many things by so many people in relation to his boat and his "dream", that he no longer believed such claims.

6. In their conversation, the captain told the Executive Director that the 1995 project had received funding to support the fitting of the boat with the necessary equipment, including for satellite communications and Internet access by schoolchildren, who would follow the voyage from their schoolroom computers. The captain explained that the voyage had not been undertaken for financial, and for technical reasons, which forced him to dock at Las Palmas following the failure of the communications equipment. The Executive Director was interested in the concept of the voyage and asked for some documents on the 1995 expedition. As the captain was trying to revive the trip with one or more new sponsors and had provided such material to many people in Las Palmas, he agreed to copy a set for the Executive Director. The captain and his fiancée, who was also his assistant, did not expect to hear from the Executive

Director again, assuming that he, like so many others, was only interested in seeing the old boat, but had no real interest in the expedition nor the means to finance it.

7. However, as the Executive Director later told the OIOS investigators, he was very interested in the idea and fully intended to pursue it. He returned to Vienna and told ODCCP staff of his idea to involve the Office in the captain's project to sail around the world. He directed the Officer-in-Charge of the Operations Branch to make arrangements for the captain to come to Vienna to present his project, which both the Executive Director and the Officer-in-Charge described to ODCCP as the captain's "intellectual property".

8. The captain and the Executive Director evidently saw each other again in Las Palmas, although neither has a specific recollection, when the Executive Director gave the captain one of his ODCCP-assigned mobile telephones so that the captain, who lived on board the boat and was contactable only via his Consulate in Las Palmas, could easily be reached by ODCCP. Further contacts were made via the mobile phone, at least by the Officer-in-Charge of the Operations Branch, who spoke with the captain at that number and sent a memorandum, on 13 October 1999, to the United Nations Office at Vienna requesting that a special services agreement be provided to the captain, citing the mobile telephone number among other contact details.

9. The evidence shows that the Executive Director and the captain were not long-time personal friends, although it appears that a relationship of some sort did develop following their meeting in August 1999 as a result both of their interest in sailing and, more specifically, the captain's keen interest in resurrecting his voyage plans and the Executive Director's in finding new ways to raise the ODCCP profile.

B. Presence of the captain on the Executive Director's boat during the voyage across the Atlantic Ocean in December 1999

10. OIOS found that the captain did not sail with the Executive Director on his boat from Las Palmas across the Atlantic to the Caribbean during the period from 4 to 24 December 1999. For part of the first week of the Executive Director's trip, the captain was in Geneva attending meetings with the International Telecommunication Union (ITU) at the request of the Officer-in-Charge of the Operations Branch. This has been confirmed to OIOS by ITU staff. OIOS has identified the two other crew members on the personal voyage of the Executive Director's boat, but neither individual is connected with the captain. In order for the captain to have joined the Executive Director's crew on the boat following his return from Geneva to Las Palmas, he would have had to be flown to the boat, which was then several days from Las Palmas somewhere in the Atlantic Ocean. As discussed in section E below, the captain was busy during the month of December establishing an office in Las Palmas.

11. Another allegation is that the captain, rather than accompanying the Executive Director to the Caribbean, returned his boat from the Caribbean to Europe. However, OIOS has confirmed with the officials at the marina in the Caribbean where the Executive Director's boat was docked, and through their documents, that the boat was still there as at May 2001, where it had been since the beginning of May 2000. From the end of December 1999 to the end of April 2000, the boat remained on the western side of the Atlantic, primarily in Puerto Rico. There is no evidence that OIOS has found, or has been provided with by others, to prove that the Executive Director's boat made a trip back to Europe during that time.

II. Problems of mismanagement

12. In examining these allegations, OIOS investigators identified a series of incidents that demonstrate serious failures of management at ODCCP in the operation of this project. The initial idea of the Executive Director was to have ODCCP sponsor, perhaps with the assistance of other United Nations organizations, including assistance from ITU in obtaining specialized communications equipment, the captain's solo voyage around the world to raise awareness of ODCCP activities. The idea was modelled after the concept introduced by the captain during his initial conversations with the Executive Director in August 1999.

13. With that idea in mind, the Executive Director told ODCCP staff, through the Officer-in-Charge of the Operations Branch, to arrange for the captain to travel to Vienna to meet with ODCCP staff to present his idea as an "innovative project" to raise awareness of

ODCCP activities. The concept was to link the old, the 90-year-old wooden sailboat, and the new, Internet access technology, to allow for communications between the captain and his audience, particularly youth, during a challenging personal sailing "adventure", with the web site also linked to other ODCCP sites where the agency's anti-drug messages and various programmes would be found. The Executive Director also told the Officer-in-Charge to seek the potential sponsorships of other organizations of the United Nations system.

14. As a result of these instructions, the Officer-in-Charge of the Operations Branch contacted the captain and arranged for him to travel to Vienna pursuant to the Executive Director's authorization, contained in a memorandum, dated 1 October 1999, and drafted by the Officer-in-Charge, which provided for a consultancy for the captain at a total value of $20,000. This amount was subsequently reduced by about half in the review carried out by the United Nations Office at Vienna. From that date onwards until the project was terminated in May 2000, the Officer-in-Charge was the manager of the boat project.

A. Relationship between the captain and the United Nations Office for Drug Control and Crime Prevention

15. Following the instructions provided in the memorandum of the Executive Director of 1 October, the Officer-in-Charge of the Operations Branch, in a memorandum dated 13 October 1999, wrote to the United Nations Office at Vienna requesting that a contract be given to the captain. Upon examination of his credentials, the United Nations Office at Vienna authorized a special services agreement, but for only the minimum consultancy fee of $200/day, which, including travel and daily subsistence allowance, totalled about half of the authorized amount of $10,252. This special services agreement covered the period from 10 November to 31 December 1999, because, according to the Officer-in-Charge "we were planning to write the project document before the end of the year". The purpose of the consultancy was, according to the provisions of the special services agreement signed by the captain, that he would "assist ODCCP in the preparation of a preparatory assistance project for a global project, with the aim of raising public awareness concerning the drug problem, focusing mainly on youth.

16. OIOS investigators determined, after a thorough review of all of the documentation relating to the captain, that the only formal agreement between ODCCP and the captain is this special services agreement, which was for the sole stated purpose of project document preparation and which expired on 31 December 1999.

B. Professional opinions of the staff of the United Nations Office for Drug Control and Crime Prevention regarding the merits of the project

17. When the captain and his fiancée [who paid her own fare] arrived in Vienna, they were met by the Officer-in-Charge of the Operations Branch, who became their primary contact for the length of the relationship between the captain and ODCCP. He accompanied them to the ODCCP offices and introduced them to the staff he had assembled to work with the captain. Although coming from differing viewpoints, the assessment of the tenor of that meeting by all participants is the same, the staff did not like the project and did not like the captain.

18. The captain complained to both the Executive Director and to the Officer-in-Charge that the staff was not "on board". The Executive Director told him that staff were often averse to new ideas. The Officer-in-Charge told the captain "not to worry about it" and that he would take care of it. At subsequent meetings, the staff who remained as part of the project team discussed the project and its difficulties but no longer objected to the project overall.

19. ODCCP staff members told OIOS investigators that they did not support the idea, believing that it was not going to be effective in bringing about drug demand reduction and that it was high risk as a means of raising awareness of ODCCP. Documents prepared during this period by staff and recently reviewed by investigators confirmed this view. Some staff members told OIOS investigators that objections were not welcomed.

The Executive Director of ODCCP responded that the report created the impression that the basic idea of a voyage around the world in a sailing boat to create

awareness of the dangers of drug abuse was somewhat off the mark and, as well, that it was not a good idea to task the captain and his boat with the voyage and awareness campaign. He felt, however, that the basic idea was only moderately "innovative" as similar project ideas had been developed and implemented by others. He added that ODCCP has had considerable success in the past with awareness activities, which are particularly important in the field of drug abuse control, with youth as the main target group. More classical methods, such as advertisements in the press and electronic media are also used, but are not the only possible means of attracting the attention of potential drug victims. Awareness is an important aspect of ODCCP's mandate, and ODCCP will continue to look for "innovative" ways of promoting its message, even though the "boat project" was not implemented.

OIOS accepts that innovative means of raising drug awareness among youth is to be encouraged. However, OIOS notes that ODCCP staff members tasked with the responsibility were uniformly of the view, based on their experience, that this particular project would not appeal to youth.

20. Moreover, even those ODCCP staff who believed that this was an "innovative" way to draw public attention to the drug problem told OIOS investigators that they felt that the captain was the wrong man for such assignment. There were several reasons given: that the captain, a man in his fifties, would not appeal to the youth they were seeking to attract through the project; that the boat was old and its seaworthiness unknown; that the captain's lack of education and lack of substantive knowledge of the anti-drug message made it unclear how he would be able to convey the desired information; that a younger person, or perhaps a series of young people engaged in a race would have more appeal; and that sleeker and newer boats with all the necessary communications equipment might be a better option. These opposing views were made known to the Executive Director prior to the commencement of the project. However, the staff reported that it was made clear to them from the beginning that the project was to be carried out with this captain and his boat.

The Executive Director of ODCCP responded that it did not "have to be" this captain and his boat. He felt, however, there were many reasons, also of a financial nature, why the captain had an advantage. The captain had already done a large part of the preparatory work necessary for such an undertaking and he had certain credentials as a navigator, as reflected in a large number of newspaper articles in the international press. ODCCP would have bought a "finished product", which would, presumably, have required less administration and investment in preparations and would have allowed an early start-up date. He accepted that the procedures for waiver of competitive bidding should have been followed. However, this did not automatically mean that the captain and his boat would not have been able to do an excellent job.

OIOS notes that one of the problems, aside from the fact that ODCCP failed to even consider competitive bidding, was that the captain did not have a "finished product". He had an idea and a boat that needed extensive work to make ready for a solo circumnavigation.

The Executive Director acknowledged that some staff did not support the project, but he felt that they objected to new things; he told those staff that he wanted the project to continue and it did. He added that the draft report created the impression that he never listened to the advice of the staff. He feels, however, this is not true as he neither "dictated" the contents of the project, nor did he micromanage its implementation. Although he took an interest in this particular project, as in the case in many other projects, ODCCP staff had considerable influence on its implementation. As recorded in the draft report, he did listen to his staff when it was proposed to start with a preparatory assistance project and, eventually, when it was proposed not to proceed with project implementation.

OIOS notes that the merits of the project, and the staff's reservations about it, were not subject to any evaluation process because the mechanism to review projects prior to implementation was abolished by the Executive Director.

21. During the captain's week in Vienna in November 1999, there were a series of substantive discussions on the implementation and costs of carrying out the voyage as an ODCCP project.

22. It was also agreed between the Officer-in-Charge of the Operations Branch and the captain that it would be necessary for the captain to set up a "subproject" office in Las Palmas. According to the Officer-in-Charge, this was essential to the project's timetable and implementation. In the meetings he had with the captain, it was agreed that the boat needed to be fully

ready by June so that testing of the boat and all of its technology could be done at sea before the targeted sailing date in September 2000.

23. Because the project was substantially different from any project previously done, and was logistically as well as technically complicated, the staff persuaded the Officer-in-Charge that, rather than launching directly into a full project a preparatory assistance project was a more appropriate means of proceeding, thus placing limitations on the risks to the programme. As one staff member explained, "we saw that it was a complicated affair, and there is no way to draw up such a complicated project in such a brief time". This reasoning was presented to the Executive Director, who agreed.

24. OIOS investigators could, however, find no evidence of, nor did staff recall, any discussion as to the appropriateness of limiting participation in the project to the captain. As the Officer-in-Charge of the Operations Branch told the investigators, "it was always going to be the captain". When queried about why the issue of competitive bidding or at least some searching for alternative sailors for the project was not evaluated and addressed, the staff said that they did not know. According to the Officer-in-Charge and the Executive Director, the project was the "intellectual property" of the captain, as it was his idea, and they did not feel it would be morally right to take the idea and use another sailor and boat. OIOS has found no legal support for this position. At least some formal case needed to be made for the uniqueness of the captain's voyage. No work on that aspect was done until much later, as noted in section G below, by outside legal counsel, who had been retained by the United Nations Office at Vienna, at the request of ODCCP, to review the contract with the captain.

C. Organization of the project

25. Although ODCCP staff understood that they were to proceed with implementing the project at the direction of the Executive Director, following discussion of their concerns about the complexities of the project, it was decided to proceed via the preparatory assistance project mechanisms. This allowed ODCCP to assess the elements of the project: the merits, costs, benefits, legal issues, etc., before committing to a full-scale project, as originally planned when the special services agreement was given to the captain in November.

26. As such, at the direction of the Officer-in-Charge of the Operations Branch, a staff member of the Branch drafted a preparatory assistance project document with a budget of $83,000, which provided primarily for the establishment of an office in Las Palmas by 1 January 2000 and for some repairs to the boat.

27. The document also provided two new elements. The first was the inclusion of a second project for a North Pole expedition at a total cost of $12,000. This project emanated from a casual discussion in September of 1999 between the Executive Director and a senior Duma official in Moscow, a well-known Arctic explorer. The official told the Executive Director and the ODCCP officials accompanying him that he often undertakes expeditions to the North Pole and invited the Executive Director to join them. However, the idea was never developed other than the allocation of the $12,000. The second, which was justified by the inclusion of the first, was the assignment of executing office responsibility to the ODCCP regional office in the Russian Federation.

28. Although the representative of the regional office in the Russian Federation and Belarus had been in Vienna the week before the captain arrived, the Officer-in-Charge of the Operations Branch did not mention the project to him at that time, nor did he advise the representative to stay for the meetings with the captain, nor did he discuss how to proceed with the North Pole "adventure". He did not advise the representative until some weeks later that his office in the Russian Federation would be assigned certain responsibilities for the boat project. The Officer-in-Charge subsequently told OIOS that the North Pole project was operationally a Russian expedition (although he agrees that it "never got off the ground") and that the Russian office had "spare capacity" and would "facilitate" his directions. As it happened, despite the language of the project document, the management of the preparatory assistance project remained firmly with the Officer-in-Charge of the Operations Branch at ODCCP headquarters in Vienna (see section G below).

29. The Executive Director signed the preparatory assistance project document on 22 November 1999. The cost of the project totalled $93,000, including the so-called North Pole project. The funds were to be

drawn from general purpose funds, which are non-earmarked funds to be used primarily for project "seed money" or to cover modest shortfalls in existing projects. However, for reasons for which Project Support Services cannot effectively explain, funds were drawn, instead, from an Albanian project. This was not reversed by the Project Support Services until 29 January 2001 when the investigators were at ODCCP headquarters.

30. In early 2000, somewhat later than scheduled, a draft project document was prepared, with an estimated cost of just over $1 million. This was subsequently revised downward to just under $500,000 when ODCCP staff decided that some of the technical work could be done in-house. This later project budget and plan were approved by the Executive Director in late March 2000.

31. Following the signing of the preparatory assistance project document in November 1999, the project began to move along more quickly. Allotment advices were prepared by the Project Support Services totalling $54,900 for 1999 and $27,400 for 2000. There were errors in these advices, which the Officer-in-Charge of the Project Support Services attributed to "typos". However, these errors were more than "typos", including the misallocation of $11,300 in consultancy funds to 2000 instead of 1999, that being the money committed in 1999 to the captain's special services agreement.

32. The allotment advices and the signed preparatory assistance project document were transmitted to the ODCCP regional office in the Russian Federation with instructions to expedite them quickly. As per instructions, the Russian office consulted with the Office of the United Nations Development Programme (UNDP) in Moscow, which performs the usual administrative functions for ODCCP (and other United Nations offices in Moscow), and also contacted the captain to request an invoice. After several drafts, an invoice acceptable to UNDP/Moscow was submitted and a bank transfer of $52,000 was made out to a bank account in Las Palmas in the name of the captain and "GLO F19". This bank account was set up by the captain on instruction from the Officer-in-Charge of the Operations Branch and his staff.

33. The Officer-in-Charge of the Project Support Services agreed that ODCCP, like other United Nations offices, could not establish bank accounts without the approval of the Controller (see Financial rule 108.1 of the United Nations). It is ODCCP "practice" to arrange for the executing or implementing partner to establish a project account. This case was admittedly "unusual" even with this practice, according to the Officer-in-Charge of the Project Support Services, as it was an account held by a private individual, rather than the usual executing partners such as an agency of a Member State or a non-governmental organization.

34. As noted above, the special services agreement contract simply provided for the captain's assistance in the preparation of the project document. Nowhere in that contract is there any authorization for the handling or spending of United Nations funds, nor could the Officer-in-Charge of the Operations Branch provide such authorization under the Financial Rules and Regulations of the Organization. When queried on this matter, the Officer-in-Charge told OIOS investigators that he had not known that the funds had been certified by the ODCCP Russian office and paid to the captain's account by the UNDP office in Moscow. However, OIOS does not find this explanation to be credible. The Operations Branch had directed that a dollar account be established by the captain for the express purpose of receiving ODCCP funds, and a written report of the transfer was provided by the ODCCP Russian office to the Operations Branch the day after the transfer was made, in accordance with instructions received from Vienna. Two months later, following his return from home leave and vacation, the Officer-in-Charge of the Operations Branch wrote a memorandum to the ODCCP Russian office suggesting that all rules and procedures for procurements should be followed, without actually mentioning, much less imposing, sanctions for the transfer of the $52,000, which had taken place in December 1999.

D. Payments by the regional office in the Russian Federation to the captain

35. The Officer-in-Charge of the Operations Branch authorized the means for the expenditures and the provision of the funds directly to the captain, including the instruction to the captain to set up a dollar account for the project in Las Palmas. He assigned responsibility for making such payments via the ODCCP regional office in the Russian Federation, by the UNDP office in Moscow, pursuant to the agreement between ODCCP and UNDP. The Officer-in-Charge

provided only verbal justification for routing payments through Moscow on a project being run by his Vienna-based staff. According to him, the other "adventure" project, the North Pole expedition, and the "policy" to decentralize projects to field offices, led him to assign responsibility for the project implementation to the ODCCP office in Moscow. However, since the boat project was run operationally and solely by ODCCP headquarters, and since the United Nations Office at Vienna has procurement authority in the same complex in Vienna, the selection of the Russian office, which was given little information about or role in the project, cannot be explained or justified, except as a means of avoiding oversight at the United Nations Office at Vienna.

The Executive Director of ODCCP commented that there was no need to, nor attempt to, avoid the United Nations Office at Vienna, as he also serves as the Director-General of the Office in Vienna.

36. Given the tenuous connection between the two Moscow-based offices, i.e. ODCCP and UNDP, and the preparatory assistance project, especially in the light of statements of the Officer-in-Charge of the Operations Branch, that "the substantive part was done by us (Vienna)", the question arose as to why the United Nations Office at Vienna was not requested to assist with the procurement activity.

37. According to the Director of Administrative Services at the United Nations Office at Vienna, his office was not asked to undertake any procurement actions, with the exception of the special services agreement for the captain. The Officer-in-Charge of the Operations Branch admitted to the OIOS investigators that the Office at Vienna was not asked because he found that "it won't do it without a lot of input, so we decentralized to the Russian Federation so it would be handled away from Headquarters". When asked if the Executive Director was aware of this decision, the Officer-in-Charge said that he did not know, but that he had not told him.

The Executive Director of ODCCP accepted that a perception was created that something was not right when payments for activities in the Canary Islands were made through the regional office in the Russian Federation. The reason, however, was neither to bypass the rules nor to hide anything from anyone. He felt there was full transparency about every aspect of the project implementation from the outset. As far as he knew, the reason for using the office in the Russian Federation was, apart from the "North Pole project", administrative convenience, since the Russian office had spare capacity that would have facilitated the administration of the project over the long term.

OIOS noted that no evidence was found indicating that ODCCP had considered using a more appropriate field office, such as its office in Senegal, to help facilitate the boat project.

E. Purchases made and the establishment of an office in the Canary Islands

38. As noted above, the funds for the project were authorized by the preparatory assistance project document signed by the Executive Director. In November 1999, in Vienna, it had been decided between ODCCP staff, the Officer-in-Charge of the Operations Branch and the captain that they would establish a "subproject office" in Las Palmas. According to the Officer-in-Charge, this was to allow for "contact with us (Vienna) as part of his (the captain's) work". When the project document was prepared, the Officer-in-Charge wanted to ensure that certain components were included: dry docking for the boat; anti-fouling and recaulking for the boat; harbour fees for one year to cover the time up to the anticipated sailing in September 2000; telephones, a fax machine and a computer (to include e-mail capacity); and a vehicle.

39. As authorized by the Officer-in-Charge of the Operations Branch, as provided for by the project document and as noted in the invoice he submitted to the ODCCP Russian office, the captain undertook the above activities. Having obtained local legal advice that he establish himself as an "impresario individual" under Spanish law to conduct the tasks authorized by ODCCP with the funding provided, the captain immediately sought to adhere to the terms of the project document. This required the establishment of a subproject office by 1 January 2000. In addition, his legal adviser suggested that if the funds were expended before the end of 1999, his tax liabilities would not flow into the following calendar year.

40. The captain and his fiancée proceeded to establish the office, renting office space near the harbour where the boat was then located, as well as purchasing office equipment, including fax, copier,

telephone, desk and computer. Additionally, as also authorized by the project document, the captain undertook to make repairs to his boat, including putting it into dry dock, arranging for carpentry and painting and paying harbour fees. Further, a four-wheel drive vehicle was purchased. As with all of these purchases, the captain held title and, hence, evidence of ownership. Funding came from the payment of $52,000 in December 1999.

41. Of all of the purchases, the one that has raised the most questions is the vehicle, which had been sanctioned by the Officer-in-Charge of the Operations Branch in Vienna in November 1999 and covered under the preparatory assistance project document signed by the Executive Director. According to the Officer-in-Charge and the captain, the vehicle was to be used by the captain to facilitate his travel in connection with the repairs to the boat, as well as the generation of sponsorship for the project by local Las Palmas entities, including the government of the Canary Islands. Although the evidence shows that the captain did make contact with government officials with a view to encouraging sponsorship of the expedition, the Officer-in-Charge offered a third explanation for the purchase to OIOS investigators.

42. The Officer-in-Charge of the Operations Branch told OIOS investigators that "the vehicle is also a question of the image of the captain in Las Palmas". He explained that the captain, who had no car at the time, could not continue to travel by bus. The Officer-in-Charge could not explain why, when he travelled to Las Palmas in January 2000, he did not require either that the vehicle be re-registered to ODCCP or that the vehicle carry an identifying United Nations logo.

43. When asked by OIOS investigators why the captain himself had made these purchases, including the vehicle, rather than the United Nations, the Officer-in-Charge expressed the view that he thought that the purchases had been made by the UNDP office in Moscow. However, managers at both the UNDP office in Moscow and the ODCCP regional office in the Russian Federation expressed a contrary view. They were surprised, given the instructions that they had received to facilitate procurement by the captain, that ODCCP headquarters could hold such a view. They also noted in separate interviews with OIOS investigators that, should the Officer-in-Charge have wanted purchases to have been made by the field offices, either he should have so advised them or should have found a field office near the location of the captain.

44. Documents and testimonial evidence retrieved by OIOS investigators from the ODCCP regional office in the Russian Federation demonstrate that the $52,000 payment, transferred in December of 1999, was the first of several payments transferred by the UNDP office in Moscow to the captain, pursuant to instructions by ODCCP. No instructions, however, were issued by the Operations Brach, either to the captain or to the ODCCP or UNDP Moscow offices, that all purchases should be done by UNDP, as is now asserted was its intention, albeit without any supporting documentation. No instructions were given either for the purchases to be made in the name of the United Nations, nor was there any attempt by ODCCP to arrange for a United Nations bank account to be opened in Las Palmas for the project funds, as required by Financial Rules and Rules of the United Nations for the handling of United Nations funds (see financial rule 108.1 (c)), nor for a closer regional office (for example, in Senegal) to be designated.

45. OIOS notes from a review of the receipts kept by the captain that he apparently expended the funds as agreed by ODCCP. The OIOS investigators received copies of statements prepared by the government auditors in the Canary Islands, who conduct monthly and random audits of the captain's disbursements under the conditions of his operating in the islands as an "impresario individual". A review and confirmation checks by OIOS investigators of the invoices maintained by the captain and his fiancée confirm that the intended uses for the $52,000 were achieved; that is, a comparison of the invoice, which was submitted by the captain and approved by the ODCCP and UNDP offices in Moscow for the $52,000, with the invoices maintained by the captain, indicate that the funds were used as authorized by ODCCP with one exception. The exception involves the vehicle, which was sold by the captain in September 2000 for a less expensive car; the difference in price being approximately $5,000, which the captain acknowledges retaining for his expenses.

46. Indeed, it appears that the captain may have incurred additional expenses in 2000 related to the project that were not reimbursed. The captain says that the Officer-in-Charge of the Operations Branch had promised, while in Las Palmas in January 2000, that he would arrange for the office in Moscow to send funds for monthly office and boat expenses. The Officer-in-

Charge does not recall making such a promise, pending a final project document, and no such instruction was given to the ODCCP office in the Russian Federation.

47. The Officer-in-Charge of the Operations Branch was the sole ODCCP staff member to undertake a mission to discuss the project with the captain in the Canary Islands. In late January 2000, he went for four days to address issues regarding the project, including the questions raised by the captain regarding his personal tax liability for receipt of ODCCP funds, and to examine the subproject office. He did not ask the captain to make any changes in the title to the above-mentioned vehicle nor did he order any other changes in the way in which the captain proceeded with the project. Moreover, in the following months, he, or staff under his supervision, approved additional payments to the captain, by the same method through the bank account in Las Palmas, totalling more than $10,000, including some $4,000 for taxes.

48. Following his meetings in Las Palmas during January and February 2000 with the Officer-in-Charge of the Operations Branch, the captain proceeded with the understanding that the project was being implemented and incurred additional expenses for which he was not reimbursed by ODCCP. Given that the Officer-in-Charge had taken a copy of the draft project document to Las Palmas, which identified a budget of just over $1 million, which he shared with the captain, it is understandable that the captain believed that the project was in fact under way. Indeed, the Officer-in-Charge confirms that he, too, believed that the project would go forward at that time, in February 2000. It was confirmed by both men that no payment had been paid to the captain for his work on the project after 31 December 1999. It was anticipated by both men at that time that the captain would begin to be paid under contract with ODCCP as soon as the Executive Director signed a final project document.

49. The review of all ODCCP documents on the project by the OIOS investigators indicates that the captain had no legal agreement with ODCCP requiring him to expend the money under certain conditions or to register property in the name of the United Nations. The captain has offered, in writing, to reimburse ODCCP the sum of $15,000 in order to end what he has told OIOS has been an "unhappy experience".

F. Payments made to the captain

50. As noted above, the Executive Director approved an initial authorization of $20,000 for a consultancy for the captain. That amount was reduced, after review by the United Nations Office at Vienna, to the actual amount of $10,252 paid under the special services agreement for the captain's services, travel and DSA. OIOS has determined that, in addition to the payments related to the special services agreement, four additional payments were made to him between 1 December 1999 and 31 August 2000, totalling approximately $65,000 ($52,000 on 1 December 1999; $2,700 on 9 March 2000; $6,000 on 15 May 2000; $4,000 on 31 August 2000). Moreover, all of the payments to the captain in 2000 were made when there was no contractual arrangement of any kind between the captain and ODCCP.

51. The reasons for the payment of the $52,000 have been discussed elsewhere in the present report. The reasons for the other payments are unclear. The authorization to pay the $2,700 comes from the Operations Branch, but the Officer-in-Charge of the Branch, who authorized it, no longer remembers why and the documentation is not enlightening. The payment of $6,000 is based on a very basic invoice dated 13 March 2000 from the captain: $3,000 for carpenters and $3,000 for materials. Once again, the payment was authorized by the Operations Branch without question in May 2000, after the decision had already been taken to terminate the project.

52. The fourth payment was also made after the project had been terminated. In August 2000, pursuant to the written direction of the Officer-in-Charge of the Operations Branch, ODCCP paid nearly $4,000 for the captain's income tax liability in connection with the $52,000 paid into his dollar account in December 1999. According to the Officer-in-Charge, he authorized the payment because of "force majeure". This is clearly contrary to the Financial Rules and Regulations of the United Nations. The Convention on the Privileges and Immunities of the United Nations of 13 February 1946 specifically exempts the United Nations from all direct taxes. Had ODCCP ensured that the handling of the project funds been properly done under the Financial Rules and Regulations, and the property held in the name of the United Nations, this liability would not have been incurred by the captain. In any event, administrative instruction ST/AI/295 makes it the "sole

responsibility" of United Nations contractors for any tax payments unless a special provision for it is included in the special services agreement. As the payment of the $52,000 was not part of the special services agreement, no such provision could apply.

G. Role played by the headquarters of the United Nations Office for Drug Control and Crime Prevention

53. The project was run entirely by ODCCP headquarters. First, the idea originated and retained the direct interest of the Executive Director from its inception. Second, it operated under the direct and personal supervision of the Officer-in-Charge of the Operations Branch, pursuant to the assignment made by the Executive Director. Third, the other "adventure" project, the North Pole expedition, never materialized and, indeed, there was no consideration given to this idea until after the Officer-in-Charge had taken the decision to assign payment responsibility for the boat project to the ODCCP office in the Russian Federation. Fourth, the payment authorizations emanated from ODCCP headquarters staff, and the ODCCP office in the Russian Federation simply acted as the transfer agent.

54. During the preparatory assistance project phase, the project staff in ODCCP headquarters proceeded with the actual project development. Although originally budgeted at just over $1 million, the preparatory assistance project document set a ceiling of just under $500,000. However, the project was not implemented due to questions regarding the legal title to the boat and, in May 2000, was stopped at the direction of the Executive Director.

55. OIOS determined from a review of all documentation pertaining to the project, from both ODCCP and UNDP, that a total of $76,000 was expended on the project at the direction of ODCCP headquarters. The only possibility of recovery of any of these funds is the $15,000 offered by the captain, despite the apparent lack of a formal legal requirement that he do so.

The Executive Director of ODCCP questioned whether there was any waste of resources. He did not believe there had been any because the investments made for the preparatory assistance project would have been directly relevant to the implementation of the main project. In his view preparatory assistance projects do not always lead to follow-up and they also perform as feasibility studies, establishing whether or not a main project should be developed and funding sources sought. In this case, all the funds used for the preparatory assistance project were spent according to the — properly approved — project document and for the purpose of preparing for and establishing the feasibility of the main project. The fact that the preparatory assistance project was not administered in accordance with all the relevant regulations and rules did not automatically justify use of the term "waste of resources" in relation to the use of funds for an approved purpose and according to an approved project document.

As stated earlier, OIOS considers the waste of resources to have arisen from the decision to spend money on refurbishing an old boat when other options at a lower cost were available and not to centre on whether the preparatory assistance project led or did not lead to a fully-fledged project at a much higher cost. Some $76,000 of ODCCP funds were expended on a project identified by the majority of ODCCP staff involved as "risky" and unnecessary when other, cheaper and more productive options existed.

H. Termination of the project

56. In reviewing the draft project documents, it became clear to staff of ODCCP that the potential liabilities for the Office were significant, including the possible loss of expensive communications equipment, the possibility of injury to the captain and/or the boat and general liability issues for ODCCP. Lacking relevant in-house legal expertise, ODCCP staff then requested the Officer-in-Charge of the Operations Branch to seek outside legal advice. With the assistance of the Division for Operation and Analysis at the United Nations Office at Vienna, the legal services of the former Director of the General Legal Division of the Office of Legal Affairs of the United Nations were retained at a cost of $10,000.

57. The legal adviser consulted with ODCCP legal staff, reviewed the project documents and began to prepare the contract documents, including a contract with the captain and a waiver of competitive bidding. During this process, the former Director of the General Legal Division determined that, in order to protect the investment to be made by ODCCP in the project, the

Office should obtain a mortgage on the boat. However, during his work, he learned that there were legal questions concerning the title to the boat. Absent clear title, and thereby the ability of ODCCP to protect its investment, the legal advice was given that to proceed was to incur great risk.

58. The Executive Director accepted the advice and the project was terminated in May 2000. Only verbal notification was given to the captain, although he now understands that the project has been cancelled. No notification was issued by ODCCP, either to the ITU staff who had worked on the project or to officials in the Canary Islands whose support had been solicited.

III. Conclusions

59. OIOS concludes from this review that the allegations of misconduct on the part of the Executive Director are not supported by the evidence. However, as the findings detailed in the present report make clear, both the management of the boat project and the use of resources were unsatisfactory, and accountability for those failures must be accepted by both the Executive Director and the person he tasked to manage the project, the Officer-in-Charge of the Operations Branch. The assignment of responsibility arises from the evidence adduced and is therefore based on the authorities and the decisions undertaken by each. It is clear that the staff of ODCCP simply did as they were told, and to assign responsibility under these circumstances to any but the two senior officers would ignore the reality of their ability to influence decisions in ODCCP.

60. The management of the project from the outset, including the decision that it be tied to one person, the captain, as both a project officer and beneficiary, without ensuring that the rules regarding use of United Nations funds and assets and measures for careful project implementation were followed, was in every respect a failure.

61. Primary responsibility for this project rests with the Executive Director. He initiated it and pushed it forward despite objections raised by ODCCP staff as to its merits and feasibility. He made it clear that it would take place and that the captain would undertake the voyage. He approved the substantive documents, including the memorandum authorizing the special services agreement for the captain; the selection of the captain without any review of other options or competitive bidding; the preparatory assistance project document that provided for funding from general purpose funds without any indications of other funding sources in the offing; and the full project document that established a $500,000 project without having established funding sources.

62. As noted in information circular ST/IC/1996/29 (para. 7 (a) (ii)), mismanagement includes any unreasonable failure by a staff member to ensure that consultants and contractors are retained on such terms and for such tasks as are in the best interests of the Organization and to adequately supervise them. Whatever the merits of the original idea, most of the ODCCP staff involved did not support it when raised, and their objection to the employment of captain as the "wrong man" for their target groups was not welcomed or accepted, though the project was modified at their insistence to proceed as a preparatory assistance project.

63. Further, as set forth in ST/IC/1996/29 (para. 7 (b) (i)), a waste of resources may be found where there is a failure to ensure that the monetary or other resources of the Organization are used solely, efficiently and effectively for the purposes of the Organization or for its benefit. This was not done by the Executive Director in this project. However, this responsibility is shared as implementation was under the direction of the Officer-in-Charge of the Operations Branch.

64. The Officer-in-Charge of the Operations Branch understood that this project was to go forward and that it was his responsibility, as specifically assigned by the Executive Director, to make it happen. Moreover, he clearly felt that he had to keep the captain satisfied, both in order to proceed with the project and to prevent complaints by the captain to the Executive Director. However, since the Officer-in-Charge undertook to manage the project himself and, more importantly for the allocation of responsibilities in this case, made certain decisions to implement it, as a senior officer he must bear responsibility for those decisions.

65. The Officer-in-Charge of the Operations Branch assigned by the Executive Director to manage the project failed in that task in significant measure by:

(a) Failure to ensure that the payments made to the captain were properly accounted for and title to property paid for by ODCCP was held by ODCCP;

(b) Use of the ODCCP office in the Russian Federation as a payment instrument with no involvement in or knowledge about the project;

(c) Failure to take corrective actions to protect the interests of ODCCP during his mission to the Canary Islands.

66. The financial accountability for the project was poor from the outset for which the Officer-in-Charge of the Project Support Services also bears responsibility as the senior financial officer. He signed inaccurate allocation advices and project charges made to another project were not reversed by the Project Support Services until 29 January 2001, during the OIOS investigation.

67. However, the financial decisions with the most serious consequences, since they affected the specific use of ODCCP funds, were made by the Officer-in-Charge of the Operations Branch:

(a) Expenditure directions by ODCCP headquarters staff to the captain and to the representative of the ODCCP office in the Russian Federation were ad hoc and contradictory;

(b) The captain's procurement transactions and the establishment of a bank account to receive United Nations funds, which he solely controlled, were allowed as a result of instructions from ODCCP headquarters and, where not done properly under United Nations rules, went uncorrected by ODCCP.

68. The management failures ran throughout the project and are numerous:

(a) Poor planning;

(b) Lack of proper financial management of $76,000:

(i) Payments to the captain were not regulated by ODCCP;

(ii) Items were purchased in the captain's name, not the United Nations, causing loss of property and incurring of tax liabilities in contravention of the Convention on the Privileges and Immunities of the United Nations;

(iii) Payments were made to an individual without legal responsibilities for the funds;

(iv) Lack of accountability for the funds led to waste of resources and violations of the Financial Rules and Regulations of the United Nations;

(v) Use of general purpose funds occurred even when there was no evidence that any other funding source was likely;

(vi) Use of Albanian project funds and failure to revert for two years was not explained;

(vii) Failure to properly advise the ODCCP and UNDP offices in Moscow led to procurement of items to which ODCCP could not claim title;

(c) Lack of project management occurred:

(i) In the contacts with the captain, including the failures to address the issues of procurement when the Officer-in-Charge of the Operations Branch was in Las Palmas on mission in January and February 2000;

(ii) In the contacts made with potential sponsors, including the Canary Islands and ITU;

(iii) In the assessment of the merits of the project, including its applicability to the mandates of ODCCP;

(d) Lack of contract management:

(i) In the failure to provide for waiver of competitive bidding or even to determine if a waiver was appropriate;

(ii) In the failure to examine issue of boat ownership in a timely way;

(iii) In the failure to assess liabilities.

IV. Recommendations

69. Management recommendations have already been made in the inspection report on programme management and administrative practices in ODCCP (A/56/83 of 1 June 2001). As a result of this investigation, OIOS recommended the following:

Recommendation 1: Appropriate action should be taken by the Secretary-General, as supervisor of the Executive Director, regarding the waste of resources and the mismanagement of the project; and also by the Commission of ODCCP as overseer of ODCCP activities to ensure that the projects initiated by ODCCP henceforth follow United Nations rules,

regulations and authorization and funding procedures. (Rec. No. IV00/218/01)

The Secretary-General has decided that appropriate administrative action will be taken in respect of the official concerned.

Recommendation 2: Appropriate action should be taken as to the Officer-in-Charge of the Operations Branch regarding the violations of United Nations rules and the loss of United Nations funds and assets, noted herein, as a result of decisions taken by him. (Rec. No. IV00/218/02)

The Secretary-General has decided that appropriate administrative action will be taken in respect of the official concerned.

Recommendation 3: Recovery should be considered for such losses as provided under the financial rule 114.1 and staff rule 112.3. (Rec. No. IV00/218/03)

The Secretary-General notes that this recommendation will be considered in light of the new procedures for implementing staff rule 112.3, once those procedures are finalized.

Recommendation 4: ODCCP should accept the captain's offer to repay $15,000 to mitigate the loss suffered as a result of this failed project. (Rec. No. IV00/218/04)

The Executive Director of ODCCP has accepted this recommendation but has not yet implemented it.

OIOS notes that the captain withdrew this offer in June 2001, subsequent to the acceptance of the Executive Director of ODCCP above, detailing his refusal to provide any payment unless "some action is taken against the responsible project manager for mismanaging the project and causing personal and financial harm to himself".

Recommendation 5: ODCCP should examine the process by which financial disbursements were assigned to a field office that had no operational responsibilities in order to determine whether other such bifurcations have occurred that could also result in losses to ODCCP. (Rec. No. IV00/218/05)

The Executive Director of ODCCP has accepted this recommendation but has not yet implemented it.

Recommendation 6: The agreement between ODCCP and UNDP should be revised to clarify the responsibilities of UNDP in executing the directions of ODCCP with respect to the disbursement of ODCCP funds. (Rec. No. IV00/218/06)

The Executive Director of ODCCP has accepted this recommendation but has not yet implemented it.

Recommendation 7: The management of Project Support Services at ODCCP should be reviewed in the light of the findings of the present report. (Rec. No. IV00/218/07)

The Executive Director of ODCCP has accepted this recommendation but has not yet implemented it.

(*Signed*) Dileep **Nair**
Under-Secretary-General
for Internal Oversight Services